



Billing Codes: 3510-22-P, 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 0648-XC275

Notice of Availability of a Draft Environmental Impact Statement/Program Timberland Environmental Impact Report associated with an Application for an Incidental Take Permit for Mendocino Redwood Company's Habitat Conservation Plan and Natural Community Conservation Plan, Mendocino County, CA

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; Fish and Wildlife Service (USFWS), Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: This notice announces the availability of the draft Mendocino Redwood Company Habitat Conservation Plan and Natural Community Conservation Plan (Proposed Plan), draft Implementing Agreement, and draft Environmental Impact Statement/Program Timberland Environmental Impact Report (EIS/PTEIR) for public review and comment. In response to receipt of an application from The Mendocino Redwood Company (MRC; Applicant), the National Marine Fisheries Service and the U.S. Fish and Wildlife Service (Services) are considering the proposed action of issuing an 80-year incidental take permit for nine federally listed species and two currently unlisted species. The proposed permit would authorize take of individual members of

species listed under section 10 of the Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884), as amended. The permit is needed because take of species could occur during timber harvest, forest management, and related activities within the 213,244-acre Proposed Plan Area in western Mendocino County, CA.

DATES: Two public meetings will be held: Tuesday, December 11, 2012, from 7 p.m. to 9 p.m. (Ukiah, California), and Wednesday, December 12, 2012, from 7 p.m. to 9 p.m. (Fort Bragg, California). Written comments should be received on or before [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The public meetings will be held at: Redwood Empire Fair Fine Arts Building, 1055 North State Street, Ukiah, CA 95482; and at C.V. Starr Center, 300 S. Lincoln St., Fort Bragg, CA 95437. Send comments by mail or facsimile to: (1) Eric Shott, National Marine Fisheries Service, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404, facsimile (707) 578-3435; or (2) John Hunter, Fish and Wildlife Biologist, Fish and Wildlife Service, Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, California 95521, facsimile (707) 822-8411. Send comments by email to [mrc.hcpitp@noaa.gov](mailto:mrc.hcpitp@noaa.gov). Copies of all email comments will be routed to the U.S. Fish and Wildlife Service.

FOR FURTHER INFORMATION CONTACT: Eric Shott, National Marine Fisheries Service (see ADDRESSES, above, or at 707-575-6089), or John Hunter, U.S. Fish and Wildlife Service (see ADDRESSES, above, or at 707-822-7201).

SUPPLEMENTARY INFORMATION:

Availability of Documents

Copies of the draft Proposed Plan, draft Implementing Agreement and draft EIS/PTEIR are available for public review during regular business hours from 9 a.m. to 5 p.m. at the National Marine Fisheries Service (see FOR FURTHER INFORMATION CONTACT); the U.S. Fish and Wildlife Service, Arcata Fish and Wildlife Office (see FOR FURTHER INFORMATION CONTACT); Mendocino County Library, Fort Bragg Branch Library, 499 Laurel Street, Fort Bragg, CA 95437; and Mendocino County Library, Main Branch Library, 105 North Main Street, Ukiah, CA 95482. Individuals wishing to obtain copies of the draft Proposed Plan, draft Implementing Agreement, and draft EIS/PTEIR should contact either of the Services by telephone (see FOR FURTHER INFORMATION CONTACT) or by letter (see ADDRESSES). These documents also are available on the NMFS' Southwest Region website at <http://swr.nmfs.noaa.gov/nepa.htm> and the Arcata Fish and Wildlife Office website at <http://www.fws.gov/arcata/>.

#### Public Involvement

The initial Notice of Intent to prepare an draft EIS/EIR for this project was published in the Federal Register on June 6, 2002 (67 FR 38932), and public scoping meetings were held on June 25, June 26, and June 27, 2002.

#### Background Information

Section 9 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and Federal regulations prohibit the take of fish and wildlife species listed as endangered or threatened by either of the Services (16 U.S.C. 1538). The ESA defines the term “take” as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532). Harm includes significant habitat modification or degradation that actually kills or injures listed wildlife

by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. Pursuant to section 10(a)(1)(B) of the ESA, the Services may issue permits to authorize incidental take of listed fish or wildlife; i.e., take that is incidental to, and not the purpose of, otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively.

Although take of listed plant species is not prohibited under the ESA, and therefore cannot be authorized under an incidental take permit, plant species may be included on a permit in recognition of the conservation benefits provided to them under a Habitat Conservation Plan (HCP). All species included on an incidental take permit would receive assurances under the Services “No Surprises” regulation 50 CFR 17.22(b)(5) and 17.32(b)(5).

The application for an incidental take permit was prepared and submitted by Mendocino Redwood Company (Applicant). The Applicant has prepared an HCP to satisfy the application requirements for a section 10(a)(1)(B) permit under the ESA, a section 2835 permit under the California Natural Community Conservation Planning Act of 2002 (NCCPA), and for compliance with California Code of Regulations 14 §§ 916.9(w)(3)-(4), 919.9(d), 919.11, and 1092.21(d) under the California Forest Practice Rules (FPRs). Thus, the Proposed Plan constitutes an HCP pursuant to the ESA, and a Natural Community Conservation Plan pursuant to the California NCCPA.

The Applicant seeks an 80-year incidental take permit for covered activities within a proposed 213,244 acre Plan Area located entirely in Mendocino County, California. The Proposed Plan Area includes commercial timberlands owned by

Mendocino Redwood Company that are located west of U.S. Route 101, and includes portions of the Albion, Big, Garcia, South Fork Eel, Navarro, Noyo, and upper Russian River river watersheds, as well as portions of Cottaneva, Howard, Hardy, Juan, Alder, Elk, Greenwood, and Mallo Pass creek watersheds.

The Applicant has requested permits that will authorize take of nine animals listed as threatened or endangered under the ESA and two species that are not currently listed under the Act. The following five listed species are proposed for coverage under the NMFS permit: coho salmon (Southern Oregon/Northern California Coast Evolutionary Significant Unit [ESU]) (*Oncorhynchus kisutch*); coho salmon (Central California Coast ESU) (*O. kisutch*); Chinook salmon (California Coastal ESU) (*O. tshawytscha*); steelhead (Northern California Distinct Population Segment [DPS]) (*O. mykiss*); and steelhead (Central California Coast DPS) (*O. mykiss*). The following four listed species are proposed for coverage under the USFWS permit: California red-legged frog (*Rana draytonii*); northern spotted owl (*Strix occidentalis caurina*); marbled murrelet (*Brachyramphus marmoratus*); and Point Arena mountain beaver (*Aplodontia rufa nigra*). The proposed USFWS permit would also cover two animal species that are not currently listed under the ESA: northern red-legged frog (*R. aurora*); and coastal tailed frog (*Ascaphus truei*).

If the Proposed Plan is approved and the permits are issued, take authorization of covered listed species would be effective at the time of permit issuance. Take of the currently nonlisted covered species would be authorized concurrent with the species' listing under the ESA, should they be listed during the permit period. The Proposed Plan is intended to be a comprehensive document, providing for species conservation and

habitat planning, while allowing the Applicant to better manage ongoing forestry operations. The Proposed Plan also is intended to provide a coordinated process for permitting and mitigating the take of covered species as an alternative to the current project-by-project approach.

In order to comply with the requirements of the ESA, California Endangered Species Act, the California Natural Community Conservation Act (NCCPA), and the California Forest Practice Rules (FPRs), the Proposed Plan addresses a number of required elements, including: species and habitat goals and objectives; evaluation of the effects of covered activities on covered species, including indirect and cumulative effects; a conservation strategy; a monitoring and adaptive management program; descriptions of changed circumstances and remedial measures; identification of funding sources; and an assessment of alternatives to take of listed species.

Proposed covered activities within the Proposed Plan are all related to forestry operations and include timber felling, transportation, road and landing construction, maintenance, development and operation of rock pits and water drafting sites, site preparation, tree planting, thinning and other silvicultural activities, prescribed burning, habitat restoration and improvement, and monitoring and research in the Proposed Plan Area.

The Proposed Plan's conservation strategy was designed to maintain or improve habitat conditions for listed and nonlisted covered species. The Proposed Plan includes minimization measures, such as disturbance buffers and sediment control measures that would avoid or minimize take of covered species from ongoing operations. The Proposed Plan also includes mitigation for take of covered species, including

maintenance and enhancement of riparian areas, wetland areas, hardwood stands, and late successional coniferous forest stands. A 1,237-acre Lower Alder Creek Management area also would be established at the outset of the Proposed Plan. The only forest management that would be permitted within this management area would enhance habitat conditions for the marbled murrelet in order to offset any loss of any occupied marbled murrelet habitat that occurs elsewhere in the proposed Plan Area during the permit term. Habitat protected under the Proposed Plan would be monitored, and annual reports documenting the status of the species and compliance with the Proposed Plan would be submitted to the Services.

#### National Environmental Policy Act Compliance

Proposed permit issuance triggers the need for compliance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). Accordingly, a joint NEPA/CEQA document has been prepared. As co-lead Federal agencies, the Services have responsibility for compliance under NEPA and are providing notice of the availability of the draft EIS/PTEIR, which evaluates the impacts of proposed issuance of the permit and implementation of the Proposed Plan, as well as a reasonable range of alternatives.

The draft EIS/PTEIR analyzes five alternatives, including the Proposed Plan, described above. The five alternatives being considered by the Services are the following:

Proposed Plan Alternative: Under this alternative, the Proposed Plan as described above would be adopted. The Applicant would receive an 80-year incidental take permit for 11 species under Section 10(a)(1)(B) of the ESA and Section 2835 of the NCCPA.

No Action Alternative: Under this alternative, the Proposed Plan would not be adopted, and permits pursuant to Section 10(a)(1)(B) of the ESA and Section 2835 of the NCCPA would not be issued by the Services and California Department of Fish and Game, respectively. The Applicant would operate under existing California Forest Practice Rules and seek compliance with Federal and California ESAs on a case-by-case basis.

Alternative A: Under this enhanced HCP alternative, the permit term and species covered would be the same as under the Proposed Plan, but there would be additional measures to enhance conservation of key aquatic and terrestrial habitats. Additional measures would include some larger protective streamside buffers and higher tree retention standards.

Alternative B: Under this terrestrial reserves alternative, the permit term would be the same as under the Proposed Plan, but only two terrestrial species (northern spotted owl and marbled murrelet) would be covered, and the minimization and mitigation for the take of covered species would be largely achieved via a system of species-specific no-harvest reserves. Unlike the other alternatives, non-reserve lands would be managed in a manner that emphasizes even-aged management of timber stands. Under this alternative, the California permit issued would not be under the NCCPA, but rather under Section 2080.1 or 2081 of the California Fish and Game Code.

Alternative C: Under this alternative, the Federal and California permits would be issued for only 40 years, during which time lands would be managed as under the Proposed Plan. After 40 years, land would be managed as under the No Action Alternative. Point Arena mountain beaver, northern red-legged frog, and coastal tailed



frog would not be included as covered species on the take permits. Under this alternative, the California permit issued would not be under the NCCPA, but rather under Section 2080.1 or 2081 of the California Fish and Game Code.

#### Public Comments

The Services invite the public to comment on the draft Proposed Plan, draft implementing agreement, and draft EIS/PTEIR during a 90-day public comment period beginning on the date of this notice. All comments received, including names and addresses, will become part of the administrative record and may be made available to the public.

Comments submitted in an email will be accepted provided they do not exceed 6 megabytes in size and are virus free. Hypertext email links to other web pages or publications shall not be deemed the equivalent of written comment.

The Services will evaluate the applications, associated documents, and comments submitted to them to prepare a final EIS/PTEIR. A permit decision will be made no sooner than 30 days after the publication of the final EIS/PTEIR.

This notice is provided pursuant to section 10(a) of the ESA and Service regulations for implementing NEPA, as amended (40 CFR 1506.6). We provide this notice in order to allow the public, agencies, or other organizations to review and comment on these documents.

Dated: November 19, 2012.

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Alexander Pitts,  
Deputy Regional Director,  
Pacific Southwest Region, USFWS,

Dated: November 19, 2012.

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Angela Somma, Chief, Endangered Species Division,  
Office of Protected Resources,  
National Marine Fisheries Service

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